

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**In re WYATT & McALISTER, PLLC
A Mississippi Limited Liability Company**

CASE NO. 3:10cv449DPJ-FKB

**In re WYATT & McALISTER, PLLC
A Mississippi Limited Liability Company**

CASE NO. 3:10cv436HTW-LRA

JOINT MOTION TO CONSOLIDATE APPEALS AND FOR BRIEFING SCHEDULE

COMES NOW Appellant Wyatt & McAlister, PLLC (Debtor below), Appellant Derek A. Wyatt (Interested Party Filer below) and Appellee Mary E. McAlister (Interested Party Filer below) and jointly request that the Court enter an order consolidating the above-captioned appeals arising out of April 23, 2010, Order entered in Case No. 09-04354-ee, by the United States Bankruptcy Court for the Southern District of Mississippi. Specifically, the parties jointly request that the appeal assigned case number 3:10cv436HTW-LRA be consolidated into the primary appeal assigned case number 3:10cv449DPJ-FKB. Further, following consolidation of these appeals, the parties jointly request entry of a briefing schedule. In support of this request, the parties will show unto the Court the following:

1. Wyatt & McAlister, PLLC (“W&M PLLC”) is a professional limited liability company originally formed on September 22, 2008, under the provisions of the Mississippi Limited Liability Company Act by two members, Derek A. Wyatt (“Wyatt”) and Mary E. McAlister (“McAlister”).

2. On December 10, 2009, acting through retained bankruptcy counsel Vann F. Leonard, Esq., W&M PLLC filed a Voluntary Chapter 7 Petition in the United States Bankruptcy Court for the Southern District. [BR Dkt. No. 1].¹

3. On December 14, 2009, acting through her separate counsel Lawrence E. Allison,

¹ Unless otherwise indicated, all docket citations prefaced “BR Dkt.” refer to the Bankruptcy Court docket styled *In re Wyatt & McAlister, PLLC*, Chapter 7 Proceeding, Case No. 09-04354ee.

Esq., McAlister filed an Emergency Motion to Dismiss W&M's Chapter 7 Voluntary Petition. [BR Dkt. No. 6]

4. On December 15, 2009, W&M PLLC filed an objection to McAlister's Emergency Motion to Dismiss. [BR Dkt. No. 8].

5. On January 27, 2010, interested party filer Wyatt filed an objection to McAlister's Emergency Motion to Dismiss. [BR Dkt. No. 43].

6. On April 23, 2010, over the objection of W&M PLLC and Wyatt, the Bankruptcy Court entered findings of fact and conclusions of law [BR Dkt. No. 88] and a Final Judgment granting McAlister's Emergency Motion to Dismiss. [BR Dkt. No. 89].

7. On June 9, 2010, W&M PLLC filed a notice of appeal to this Court. [BR Dkt. No. 103]. Thereafter, the Clerk's Office for the United States District Court for the Southern District of Mississippi assigned case number 3:10cv436HTW-LRA to W&M PLLC's appeal. [BR Dkt. No. 129].

8. On June 23, 2010, interested party filer Derek A. Wyatt filed a notice of appeal to this Court. [BR Dkt. No. 109]. Thereafter, the Clerk's office for the United States District Court for the Southern District of Mississippi assigned case number 3:10cv449DPJ-FKB to Wyatt's appeal. [BR Dkt. No. 130].

9. Counsel for Appellant W&M PLLC and counsel for Appellee McAlister have contacted the Deputy Clerk of this Court to discuss consolidation of these appeals into a single action. Counsel for Appellant W&M PLLC has been advised by the Deputy Clerk that the primary appeal in this matter has been assigned case number 3:10cv449-DPJ-FKB, and that if the parties wish to have these appeals consolidated, they should seek such relief through a motion filed with the Court.

10. Appellant W&M PLLC, Appellant Wyatt and Appellee McAlister jointly request that the Court enter an order consolidating case number 3:10cv436HTW-LRA into the primary appeal assigned case number 3:10cv449DPJ-FKB. Consolidation of these appeals into a single case bearing case number 3:10cv449DPJ-FKB will conserve the resources of the parties as it will permit a single set of appeal briefs to be filed by the parties. Further, consolidation will conserve the resources of the Court as it will result in a single District Judge being assigned to the consolidated appeal. Additionally, consolidation will negate the possibility of inconsistent rulings on the same legal issue(s). Finally, consolidation will conserve the resources of the Clerk's office as it will eliminate the need to compile and maintain two separate appeal dockets.

11. Consolidation will not result in any prejudice to creditors or other interested parties or persons associated with the bankruptcy proceeding below.

12. Lastly, assuming the Court is in agreement with the joint motion for consolidation, the parties jointly request entry of a briefing schedule for the submittal of briefs but otherwise following the briefing protocol applicable to appeals from the bankruptcy court to the United States District Court.

ACCORDINGLY, the parties jointly request that the Court enter an order consolidating the appeal assigned case number 3:10cv436HTW-LRA into the primary appeal assigned case number 3:10cv449DPJ-FKB. Further, following consolidation of these appeals into a single action bearing case number 3:10cv449DPJ-FKB, the parties jointly request entry of a briefing schedule for the submittal of briefs but otherwise following the briefing protocol applicable to appeals from the bankruptcy court to the United States District Court.

This the 27th day of August, 2010.

Respectfully submitted,

WYATT & MCALISTER, PLLC
Appellant (Debtor below)

By: /s/ Vann F. Leonard
Its Attorney

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By: /s/ Derek A. Wyatt
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MARY E. McALISTER,
Appellee (Interested Party Filer below)

By: /s/ Joseph Anthony Sclafani
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CERTIFICATE OF SERVICE

I hereby certify that I have this date caused to be mailed by prepaid First Class United States Mail a true and correct copy of the above and foregoing Motion electronically filed with the Clerk of this Court using the ECF system, to the following persons named below:

Further, I hereby certify that I have mailed by United States Postal Service the document to the following: NONE.

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This the 27th day of August, 2010.

/s/ Vann F. Leonard